

Applicant : Tuo Jin
U.S. Serial No.: 10/606,344
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REMARKS

Claims 1-19 are pending in the application. Applicant has amended claim 13 to eliminate the multiple dependency and has further amended claim 14 to apply the limitations of the product such as solid lipid or lipid mixture, porous powders, and active compound. Accordingly, there is no issue of new matters and Applicant respectfully requests the entry of this Amendment. Upon entry, claims 1-19 will be pending and under examination.

Election/Restrictions Requirement

The Examiner to whom this application is assigned indicated that under 35 U.S.C. § 121, restriction to one of the following groups of inventions is required:

- I. Claim(s) 1-13 and 16-19, drawn to a composition in the form of a powder, classified in class 424, subclasses 408, 452, 464, and 489.

- II. Claim(s) 14-15, drawn to a method of making a composition in the form of a free flowing compressible powder, classified in class 514, subclasses 16, 577, etc., dependent upon the active agent selected.

In response, Applicant respectfully traverses the above restriction.

Under MPEP, there are two criteria for a proper requirement for restriction between patentable distinct inventions: (A) the inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and (B) there must be a serious burden on the

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Examiner if restriction is required (see MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02). If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes independent claims or distinct inventions.

Applicant further submits that claims 1-19, Groups I-II, do not require restriction as they are connected by a single relationship, a porous powder or a mixture of a porous powder. Amended claim 14, the method of making the product is dependent on claim 2, the composition of the product. Accordingly, Group II is clearly dependent on Group I.

In addition, Applicant maintains that the Examiner would not be seriously burdened by searching and examining all of the pending claims in a single application. A search for the key term drawn to a composition in the form of a powder (Group I) will clearly reveal the dependence on the method of making a composition in the form of a free flowing compressible powder (Group II). (MPEP § 802.01).

Given the single, searchable relationship, the Examiner would not be seriously burdened by searching and examining the claims of these groups in a single application. (See MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02). Accordingly, Applicant requests withdrawal of the restriction of claims 1-19.

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Election of Invention

In the event the above discussion does not convince the Examiner to withdraw the restriction requirement, Applicant hereby elects Group I, drawn to a composition in the form of a powder

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicant's undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Response. However, if a fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 50-1891.

I hereby certify that this paper is being facsimile transmitted to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
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on the date shown below.

Albert Wai-Kit Chan 7/10/06
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Respectfully submitted,

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